

**IN THE MATTER** of the *Planning and Environment Act 1987* [the Act]

and

**IN THE MATTER** of the *Victorian Civil and Administrative Tribunal Act 1998* [the VCAT Act]

and

**IN THE MATTER** of Application for Review No. P1174/2007 by Regal Hotel Pty Ltd & ors [the Objectors] against the decision of the Port Phillip City Council [the Council] to grant a permit for the use and development of part of Albert Park situate at the north-west corner of Lakeside Drive and Fitzroy Street, St Kilda [the Subject Land] for the purpose of a skate park.

**WRITTEN OUTLINE OF SUBMISSIONS IN REPLY**  
**ON BEHALF OF THE COUNCIL**

**1. CONTEXT**

- 1.1 It is submitted that even if the Tribunal reached the conclusion that the Council is not a Public Land Manager of the Skate Park site and that use permission is required, the issue as to what level of town planning control should apply to the proposal must be seen in the context that the land surrounding the site is land under the control and management of Parks Victoria as a Public Land Manager and that the use and development of that land by Parks Victoria is not subject to planning control under the zone provisions in respect of either use or development.
- 1.2 It follows that any conditions are to be limited to the Subject Land, being the designated Skate Park site.

- 1.3 The use of the Skate Park site is to be seen in the context that the use of surrounding lands within the Park by persons other than Parks Victoria, for example the use of the Ian Johnson Oval for the playing of the sports of cricket and football or school related activities, are undertaken without there being any town planning conditions for that use or any other conditions beyond the terms of any agreement with Parks Victoria.
- 1.4 The Ian Johnson Oval has been created as a sports oval after 1994 without any planning permit and there is no permit on Council records for its use for organised sport or for educational purposes.

## **2. IMPACT SOUTH SIDE FITZROY STREET**

- 2.1 It is submitted that there is no evidence to support any material impact on the owners and operators of premises on the south side of Fitzroy Street including residents, the Traders Association, the Australian Institute of Management or the operators of licensed facilities in the general locality.
- 2.2 In particular the visual impact of the proposal is minimal, being grass mounding in a grassed and lightly treed setting, with a maximum wall exposure viewed from Fitzroy Street and beyond being angled walls with a height of up to 600mm.
- 2.3 The best evidence regarding acoustic impacts is the advice of Heggies Australia Pty Ltd of 24 October 2005 obtained by the Council's consultants during the site selection phase concluding that skate park noise is unlikely to contribute any further to the already existing high ambient noise environment with predicted noise levels likely to be inaudible at the nearest affected residential receivers.

### **3. IMPACT ON JUNCTION OVAL AND LAKESIDE DRIVE**

- 3.1 The view from Lakeside Drive will only be open to pedestrians and drivers in Lakeside Drive or the open park area south of the Junction Oval.
- 3.2 The view line from such locations is not to any significant visual landmark or significant object in the landscape and is not a view which would generally derogate from the open treed landscape of Albert Park to any greater degree than any number of larger one and two storey buildings intruding into or contained within the Park.
- 3.3 It is submitted that the appearance of the structure from all aspects will be a good example of urban infrastructure comfortably sitting in its landscape setting with materials drawing from a palette found in the general area.
- 3.4 The proposal will have no visual impact on the Junction Oval and will be dwarfed in terms of its relationship with the open landscape by the grandstands of the Junction Oval.

### **4. NIGHT**

- 4.1 It is not the intent of Council or the design to allow use of the facility at night.
- 4.2 At night it will have low level lighting, with lighting from the street lights defining the edge, but lighting within the facility being below what is, on the best evidence, a low pedestrian level.
- 4.3 The Skate Park will at night remain open to visibility from the south from the multi storey buildings on the south side of Fitzroy Street, to vehicle/ tram

travellers and pedestrians in Fitzroy Street and in particular the traffic in Lakeside Drive.

- 4.4 The Skate Park will be more open to surveillance than many other locations in the Park, including locations adjacent to the Sports Club and the School.

## 5. PROXIMITY TO THE SCHOOL

- 5.1 The School operates, apparently successfully, in a locality which is a Major Activity Centre where there are incidents of drug use and drug trafficking, sex workers and their clients and a wide range of venues selling alcohol.
- 5.2 The School is located behind a publicly open car park with evidence of consumption of drugs and alcohol.
- 5.3 The School is adjacent to the station which is an attraction to groups of adolescents and young adults.
- 5.4 The School buildings and fence which are on the Park boundary already experience graffiti, as do other buildings and structures within the Park, which is addressed as routine maintenance by Parks Victoria on an as needs basis which will remain a responsibility accepted by Parks Victoria as evidenced in the list of agreed responsibilities tendered in evidence on behalf of the School and consistent with the proposed management plan.
- 5.5 The assertion by the School President of few, if any, problems with graffiti or vandalism [paragraph 25] sits uncomfortably with the revised position of no graffiti in the School following evidence of graffiti on the School property interface with the Park.

- 5.6 There is no reason to believe that if the present graffiti artists, if that be the right expression, have limited their endeavours to the boundaries of the School with the Park, they will not continue to do so with the advent of the Skate Park.
- 5.7 It is common ground that access for School children wishing to come from the east or go to the east would not do so north of the Junction Oval.
- 5.8 Accordingly it follows that the route to the School is along the public footpath of Fitzroy Street, south of the entrance Skate Park.
- 5.9 The facility does not have an active interface towards the Fitzroy Street footpath.
- 5.10 There is no reason for children attending the School to use the footpath of Lakeside Drive.
- 5.11 School activities on the new Ian Johnson Oval (Oval 1) are supervised by teachers and the design of the facility does not include active areas facing the Ian Johnson Oval.
- 5.12 Not only are the school children fully supervised during School hours, and the expectation is that the use of the Skate Park will be primarily after School hours and of weekends, but the open area around the Skate Park is in full view of all persons in Fitzroy Street, Lakeside Drive and other Park users and will remain under the management of Parks Victoria.
- 5.13 It has been acknowledged on behalf of the School that, whilst the Council and the School do not agree as to the location of the Skate Park, the Council has

addressed the School's concerns to the extent that it is able within the design of the facility.

- 5.14 The initial advice from Victoria Police was sought to identify matters to which regard should be had in the design of the proposal.
- 5.15 The letter of the Victorian Police when commenting on the final design applying the CPTED (Crime Prevention through Environmental Design Principles) states that (in part) "*The location chosen at the intersection of Fitzroy St and Lakeside Drive is a good location. The location is open to and used by the general public. I do not believe that its construction will adversely impact on local issues relative to the residential and commercial tenancy...*". and in response to the further amendments to the plans in March 2007 stated that there are no concerns [a copy of this latest advice is attached in Schedule 1 to this outline].
- 5.16 It is not accepted that there will be unacceptable impacts on the School arising from this new recreational facility in the Park having regard to the separation between the School and the Skate Park, the design of the Skate Park, the degree of passive surveillance, and the management regime agreed between Parks Victoria and the Council.
- 5.17 A copy of the responses from the Shire of Yarra Ranges and the Monbulk Police regarding the Monbulk Skate Park and Primary School, together with a location plan, is attached to Schedule 2 to this outline.

- 5.18 Attached in Schedule 3 is a plan of the Subject Land showing distances, as the crow flies, to features in the general area.
- 5.19 Attached in Schedule 4 is a comparison prepared by Council Officers with other Skate Parks and Schools.
- 5.20 Of the identified skate parks in the vicinity of Primary Schools only one has a Management Plan, none have a dedicated budget, all are closer to the respective School than the proposal with two sharing a common boundary and none have any on-site supervision.
- 5.21 Attached in Schedule 5 are comments received from the Parks Officer of the City of Yarra regarding Edinburgh Gardens and a location plan.
- 5.22 Attached in Schedule 6 are comments received from the Recreation Services Co-ordinator of Maribyrnong City Council regarding Yarraville Skate Park and location plans.
- 5.23 Attached in Schedule 7 is the most recent advice from Parks Victoria.

## **6. PUBLIC TOILETS**

- 6.1 It is not accepted that there is any reason why Skate Park users, who are more mobile than pedestrians, will not conveniently use the public toilets provided by Parks Victoria to service this southern section of the Park.
- 6.2 The location of toilets throughout the Park is a responsibility and function of Parks Victoria.

**7. ABORIGINAL SITE**

- 7.1 Attached in Schedule 8 is advice from Aboriginal Affairs Victoria that the proposal is not registered as a place of aboriginal significance.
- 7.2 Although no statutory obligation exists the City of Port Phillip is intending to implement the cultural heritage management plan that was agreed with the local indigenous groups and Aboriginal Affairs Victoria

**8. CONDITIONS**

- 8.1 It is submitted that the management and care of the Skate Park and its surrounds is a matter which is the responsibility of the Council and Parks Victoria under their respective statutory powers and functions.
- 8.2 The management of the other recreation, sporting and educational activities in the Park is managed by Parks Victoria not by town planning conditions.
- 8.3 If, contrary to the Council's primary submissions, the Tribunal were of the view that there should be a formal management regime related to the use of the Skate Park under the town planning permit, then, it is submitted, it needs to be flexible to address the actual experience rather than any apprehensions.
- 8.4 If there is to be a management regime in a town planning context then it is submitted that it should be in the form generally consistent with the form of the existing draft Management Plan to the satisfaction of the primary Public Land Manager for the whole of the Park, viz Parks Victoria.
- 8.5 The Council would accept a condition that the Skate Park not be lit at night to an extent to facilitate skateboard, in-line skate or BMX bike usage after dark

and a limitation of any organised competition to not more than two per annum, which has been agreed to by Parks Victoria which, on the evidence, is all that would occur in any event having regard to the Riverside facility.

29 November 2007  
07040841

**Ian Pitt SC**  
**of Best Hooper**  
**Solicitors on behalf of the Council**

**SCHEDULE 1**



VICTORIA POLICE

Crime Prevention Officer  
Region 1 Division 3  
General Policing Department  
Region One  
Caulfield Police Complex  
250 Hawthorn road Caulfield 3162  
DX 212140  
Tel: (03) 85246551  
Mobile: 0414 181 490

8<sup>th</sup> March 2007,  
Port Phillip Council  
Attention: Ms Fiona Blair,

**SUBJECT: Proposed Port Phillip Skate Park Review**

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As a result of our discussions at the Port Melbourne council chamber rooms on the 8<sup>th</sup> of March 2007, please find the following summary relative to amendments to the proposed skate park.

I have noted my document tendered by you today of my initial November 2005 response.

I have read this and have no real concerns further to add that to this date, that I am aware of.

On this initial report, I applied the fundamentals of CPTED, Crime Prevention Through Environmental Design, taking into account predominantly:

Line of sight

Vegetation growth

Lighting

Access

Legitimate user space & ownership.

You highlighted that the area had only been marginally reduced for logistical reasons. There were no real changes in landscape or design. On reviewing your coloured copy concept images, these were inspected and I concur that the minimising of size appears to in no way effect this structure.

Treatment and remedy issues relative to graffiti, aftercare and maintenance of the facility was discussed and my only continued comment was to allow as reasonably as possible the treatment of silicon or similar graffiti treatment /barriers on areas that could be exposed: wall facades or areas of potential exposure.

*As of this date, I therefore conclude there are no concerns to these recent amendments which I believe will impact on the new venue model.*

With this, I thank you for the time to assist in applying crime prevention thoughts on this project.

I wish you well in its development and again, invite should the need require to contact this office.

Regards

**Peter STEFANIW**  
**Senior Constable 24327,**  
**Crime Prevention Officer,**  
**Cities Of Port Phillip & Glen Eira**  
**Caulfield Police station,**  
**289 Hawthorn Road, Caulfield.**

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**SCHEDULE 2**

## Margaret Franklyn

**From:** Ian Pitt  
**Sent:** Wednesday 28 November 2007 2:00 PM  
**To:** Margaret Franklyn  
**Subject:** FW: Monbulk Skate Park  
**Attachments:** YARRA JUNCTION.doc; Monbulk Reserve Site Plan.doc

Part 2

**From:** Blair, Fiona [mailto:fblair@portphillip.vic.gov.au]  
**Sent:** Tuesday, November 27, 2007 3:49 PM  
**To:** Ian Pitt  
**Subject:** Monbulk Skate Park

Ian

This is a response from Shire of Yarra Ranges in relation to the Monbulk Skate Facility. Fiona

**From:** Wright Gerran [mailto:G.Wright@yarraranges.vic.gov.au]  
**Sent:** Tuesday, 27 November 2007 3:24 PM  
**To:** Blair, Fiona  
**Cc:** Doubleday Mark  
**Subject:** RE: Monbulk Skate Park

Dear Fiona,

I have made some comments below under each of the questions. I have attached a copy of the Management plan that has been produced for another Skate Park. A meeting was convened at Monbulk to produce a management plan for the Monbulk facility however we did not get a good response to the meeting and the management plan was subsequently never developed. However all the conditions of use and signage in the attached management plan would apply to all skate parks in Yarra Ranges (we have 6 skate parks). I have also attached a site plan as requested.  
cheers Gerran

-----Original Message-----

**From:** Blair, Fiona [mailto:fblair@portphillip.vic.gov.au]  
**Sent:** 26 November 2007 2:53  
**To:** Wright Gerran  
**Subject:** Monbulk Skate Park

Hi Gerran

Thanks for your time today as discussed we are currently in the process of a VCAT hearing to do with the development of a Skate Park in St Kilda. As part of our presentation we are looking at detailing some of the work we did 2 years ago when investigating the impact of skate parks in proximity to schools.

In 2005 as part of a detailed investigative analysis we sought to obtain information from schools and councils that had skate parks situated in proximity to schools. Monbulk was reviewed as part of this process in 2005 and we are seeking additional information and to see if there has been any changes to the information provided in 2005. (The information provided in 2005 is in grey text)

If it is available could you provide information to the following questions

- Are you aware of any issues in relation to the skate park? There has been one issue raised by

28/11/2007

a local resident in relation to behaviour of users of the skate park and the amount of rubbish left by them at the skate park. We have spoken with the local police who subsequently talked to some of the 'leaders' at the skate park to ask them to demonstrate more responsible behaviour. The Senior Sargent at Monbulk Alan Fincher believes that the skatepark has had a positive benefit for the youth in Monbulk. We have also installed bins at the skate park and BMX track which are emptied on a regular basis.

- Can you make any comments on the implementation of the management plan for the skate park? A typical Management Plan is attached and was developed in conjunction with users and parents for the Yarra Junction Skate Park. Unfortunately when we called a meeting to develop one for Monbulk insufficient interest was there however we use this management plan for all skate parks in Yarra Ranges.
- Does the council believe that the skate facility is managed effectively? Are there any areas council will be seeking to change/improve? No major issues. Some graffiti appears occasionally and rubbish has been an issue. Landscaping around the skate park could have been incorporated in the design and construction so that the surrounds could be better maintained and provide a more attractive environment.
- Does the skate park design, signage and management plan address any safety concerns? The design and location was done in relation to the criteria set in our Skate & BMX Strategy and we used Convic for the design and construction of the Skate Park & BMX track. There is conditions of use / safety signage. We are not aware of any incidents that have occurred due to any safety flaws of the skate park. Since the skate park was constructed we did improve the fencing of the site to provide a barrier to restrict vehicles entering the proximity of the skate park and to prevent users from running or riding onto the internal park driveway as vehicles were passing.
- What is the annual maintenance/operation costs for the Monbulk Skate Park? I am not able to give you any advice as our Asset Maintenance department is responsible and they do not keep records for individual skate parks.
- What is Council's policy/practice on graffiti removal at the Skate Park? See management plan
- How often if at all does the Council receive complaints from residents in relation to any issues at the skate park? From my knowlwdge there has only been one or two complaints since the skate park was built in 2004 and a number of compliments.
- Are you aware of any issues the school has with the skate park? How often if at all does the Council receive complaints from the local primary school in relation to any issues at the skate park? We received a letter from Monbulk Primary School in 2004 congratulating the Shire on the foresight to provide youth of Monbulk a designated area to recreate. The letter goes on to say both the Skate Park and the BMX track have been a resounding success. However one negative aspect is the amount of litter generated and the adverse image that would have on the school. The Shire subsequently installed rubbish bins and increased the inspections at the facilities. We are not aware of any recent complaints that the primary school has made about the skate park.
- Have council received any advise from the school in relation to issues the school has with the skate park following a school meeting on the 14th November 2007. Not aware of any recent communication from the school in relation to the skate park.
- How often if at all does the Council receive complaints from sports club in relation to any issues at the skate park? We are not aware of any written complaints from the sporting clubs.
- When Council was designing the skate park were the CPTED (Crime Prevention Through Environmental Design) used? The skate park was designed with this criteria which was included in the Skate and BMX Strategy.
- Are you aware of any additional police patrols in the are due to the skate park? We did request additional surveillance by the Police when an initial complaint was made about behavior and rubbish. We have not received any further complaints.
- Can you provide information on who uses the facility? For example is it a local facility or does it attract a wider regional patronage? Use is predominantly for local young people in response to petitions and letters to Council from young people and parents who previously had to take their children to other skate parks many kilometers away. The facility was designed as a small local skate park. Monbulk is not well served by public transport therefore not easy for young people to access the site.

If you are able to send a copy of your management plan and a GIS picture that shows the skate park, BMX track and the school that would be helpful.

Shire of Yarra Ranges (comments 2005)

School has used the recreation reserve for their open uses and have taken great pride in maintaining it

There have been some reports of littering

There have been only two major issues with graffiti of the skate park. Police involvement coupled with a policy to use contractors to remove graffiti immediately seemed to reduce any further incidents

Park services conduct fortnightly (approx) inspections with few major problems reported

Park is mainly used by males 8yrs - 16 yrs although some girls also use the facility

German we are at VCAT on Thursday, it would be very helpful if you could respond to this by the end of Tuesday. Thanks again for your time.

Kind Regards

Fiona

**Fiona Blair**

Youth and Recreation Coordinator

City of Port Phillip

Tel: 03 9209 6782

Fax: 03 9536 2724

Mobile: 0422 003 567

Email: [fblair@portphillip.vic.gov.au](mailto:fblair@portphillip.vic.gov.au)

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28/11/2007

Ian Pitt

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From: Blair, Fiona [fblair@portphillip.vic.gov.au]  
 Sent: Tuesday, November 27, 2007 6:08 PM  
 To: Ian Pitt  
 Subject: FW: Monbulk Skate Park

Ian  
 Response from Monbulk police in relation to Monbulk Skate Park, Fiona

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From: Fincher, Alan [mailto:alan.fincher@police.vic.gov.au]  
 Sent: Tuesday, 27 November 2007 5:49 PM  
 To: Blair, Fiona  
 Subject: RE: Monbulk Skate Park

Hi Fiona,

• *Are you aware of any issues in relation to the Monbulk skate park?*

Current issues relate to appearance and rubbish around the site - there seems to be a culture that it doesn't matter how many bins a place around the site it is much easier to drop drink bottles, etc. next to the bins. There have been issues in relation to graffiti, particularly personal comments directed towards individuals. Yarra Ranges graffiti project worker, Kate Powne will be assisting with a range of strategies early in the new year.

• *What has your experience been with the Monbulk Skate Park?*

Overall, the experience has been extremely positive. This is a meeting place and an outlet for local youth to become involved in an enjoyable physical activity. The skate park has assisted in solving an ongoing problem of skaters vs pedestrians in the main street.

• *How often if at all do the police receive complaints from residents in relation to any issues at the skate park?*

There have been occasional calls in relation to rubbish that are passed onto the shire. Several minor issues have been reported by younger kids or parents in relation to bullying or access to the facility - older vs younger users but these have decreased with time. They have been minor and are not exclusively restricted to skate park issues.

• *Have the police responded to any issues at the skate park through requests from the school?*

Not that I am aware of. The recreation reserve is used by the school as a play area during school hours and there have been calls in the past but not generally related to the skate park. The kids that may be using the skate park during school hours are more than likely to have been past students of the primary school and known to the teachers. Also the skate facility is located as far as possible from the school - around 200m away on the opposite side of the oval.

• *Are there any issues in relation to anti social behaviour?*

Minor, intermittent issues only that are more to do with the individuals than the location. The reserve is a 'no alcohol' area which provides police with the option of issuing penalty notices if alcohol consumption at the park was a problem. The park is the subject of regular police patrols where we would quite often stop and have a chat to the kids that are there.

• *In your opinion/experience is the location of the skate park suitable?*

The location of the skate park is extremely suitable. It is close to the main street, located within the recreation reserve, highly visible from the street, far enough removed from residential area so as not to cause any noise issues. Ideally there would be some minor landscaping carried out to give the area a neater appearance but that is purely a personal opinion.

• *Are the majority of the people who use the skate park local or from outside the area?*

The facility was specifically designed as a smaller skate park for local use. It has been found that the larger facilities attract larger crowds from a much wider area and that was never the intention. Local kids were part of the design working group and there is a real sense of ownership through seeing the design components come together in the finished product.

Good luck at VCAT, hope this helps - at the end of the day the object has always been to provide for local kids by taking them away from areas such as the strip shopping centre where there is conflict with pedestrians and giving the kids a space of their own. As you would know you are never going to keep everybody happy all of the time but the Monbulk skate park has been successful in achieving the aims.

*Alan Fincher*

Sergeant 17472  
 Monbulk Police  
 58 Main Rd Monbulk 3793  
 B 97588268  
 F 97520158

11/27/2007

M 0417 358466

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From: Blair, Fiona [mailto:fblair@portphillip.vic.gov.au]  
Sent: Tuesday, 27 November 2007 5:05 PM  
To: Fincher, Alan  
Subject: Monbulk Skate Park

Hi Alan,

Thanks for your time today as discussed we are currently in the process of a VCAT hearing to do with the development of a Skate Park in St Kilda. As part of our presentation we are looking at detailing some of the work we did 2 years ago when investigating the impact of skate parks in proximity to schools.

In 2005 as part of a detailed investigative analysis we sought to obtain information about skate parks situated in proximity to schools. Monbulk was reviewed as part of this process in 2006 and we are seeking additional information.

If it is available could you provide information to the following questions:

- Are you aware of any issues in relation to the Monbulk skate park?
- What has your experience been with the Monbulk Skate Park?
- How often if at all do the police receive complaints from residents in relation to any issues at the skate park?
- Have the police responded to any issues at the skate park through requests from the school?
- Are there any issues in relation to anti social behaviour?
- In your opinion/experience is the location of the skate park suitable?
- Are the majority of the people who use the skate park local or from outside the area?

Thanks again for taking the time to respond, I would really appreciate it if you were able to provide a response by tomorrow.

Kind Regards

Fiona  
Fiona Blair  
Youth and Recreation Coordinator  
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11/27/2007



**YARRA JUNCTION  
SKATE FACILITY  
MANAGEMENT PLAN**

**JUNE 2004**



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<b>YARRA JUNCTION SKATE PARK : CONDITIONS OF USE</b>	

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## **BACKGROUND**

In 2001 Council commissioned a 'Skate/BMX Strategy' in response to the demand for facilities throughout the Shire. The project was designed to identify the demand, type and geographic locations for the development of facilities taking into account access, safety and integration with other services.

The strategy identified the development of the Yarra Junction Skate Park as a high priority in response to the needs of young people in the valley. The site was chosen as it clearly met the site selection criteria outlined above and allowed the natural terrain to be used in the design phase. The design of the park followed an extensive consultation process and provides the opportunity for predominantly beginner to intermediate skill levels.

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## **MANAGEMENT ADVISORY COMMITTEE**

The Shire has established a management advisory committee to assist with the design and monitor the use of the Skate Park. The committee has sought representatives from Skaters, Parents, Residents, Traders and Community Groups. The following people are currently on the Skate Park Management Advisory Group:

<b>Ben Closter</b>	<b>Skater</b>
<b>Rory Tauro</b>	<b>Skater</b>
<b>Andrew Camell</b>	<b>Skater</b>
<b>Tim Cole</b>	<b>Skater</b>
<b>Alex Richardson</b>	<b>Skater</b>
<b>Adrian Dylan</b>	<b>Skater</b>
<b>Daniel Peterson</b>	<b>Skater</b>
<b>Matt Bell</b>	<b>Skater</b>
<b>Ben Aulich</b>	<b>Yarra Junction Police</b>
<b>Monica Keane</b>	<b>Ward Councillor</b>
<b>Peter Peterson</b>	<b>Parent / Resident</b>
<b>Kate Pulling</b>	<b>Youth Services – Shire of Yarra Ranges</b>
<b>Ron Pearce</b>	<b>Recreation Services – Shire of Yarra Ranges</b>

---

## **TIMES OF USE**

The skate facility is not lit, therefore it is to be used during daylight hours only as use in darkness could lead to injury. Use of the facility after daylight hours would also potentially inconvenience other community groups and residents due to noise generated from the site from normal use (enthusiasm of skaters encouraging other skaters)

## **ACCESS**

Access to the skate facility is via a combination of the Rail Trail, roadways, car park, and footpaths through the main street along the Warburton Highway.

For safety reasons 'No Skating' signs will be erected in the Yarra Centre carpark to reduce the risk to skaters and minimise the hazard to pedestrian traffic using the centre.

## **CODE OF CONDUCT**

Skaters have developed the Code of Conduct

- Where to skate: for your own safety and other pedestrians skaters are to skate only on the skate park and not adjacent roadways, car park, footpaths or driveways. Please carry skateboards when going to shops.
- When using the skate park take turns and don't monopolise use of facility. Don't sit on platforms, ledges, rails, etc. If you see someone doing the wrong thing please let them know. A leaflet will be developed advising the code of conduct and conditions for use of the skate park
- Respect other users of the skate park along with other community members in the surrounding area. They have a right to also use and enjoy the area around the skate park.
- Place litter in bins provided

## **SAFETY POLICY AND PROCEDURES**

There is no direct supervision at the skate facility. Council regards the facility in the same way as other playgrounds and open space areas in that it is openly accessible and not supervised. It is a requirement that parents supervise children under the age of eight years. The site is to be kept open to ensure visual surveillance is unrestricted.

Signage has been erected to advise users of the conditions of use of the facility to ensure their safety.

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## **POLICY FOR DEALING WITH ANTISOCIAL BEHAVIOUR**

In some instances youth orientated facilities have been known to attract anti-social behaviour such as graffiti, vandalism; under age drinking. Council does not anticipate that such behaviour will be a major problem at this site due to the urban planning works that have been done to open up views and surveillance of the site, along with the facility not being lit. Council wishes to discourage anti-social behaviour, and as such, has developed a contingency plan in the event that this occurs.

### ***Contingency Plan***

That users of the Yarra Junction Skate Park behave in a manner that is socially acceptable to other skate park users and surrounding user groups (including community groups, retailers and residents). Any reports of anti-social behaviour (eg. drug taking/dealing, violence, vandalism, graffiti, deliberate damage or harm to others or their property etc) will be dealt with according to the following contingency plan:

- Where there are more than two reports of anti-social behaviour to Council or Police per week for two consecutive weeks, Council will raise the issue with the identified person if possible. If this is not possible Council will arrange for youth outreach workers to frequently visit the site.
- Where the issue is still not resolved Council will notify the Police and seek regular site visits by patrolling officers.
- Where the issue continues to remain unresolved, Council will refer the matter to the Police for action.

## **COMMUNITY COMPLAINTS PROCEDURE**

Community groups and individuals are encouraged to report any incidents relating to the use of the Skate Park to Council through Councils normal complaints procedure. Any complaints received about the Skate Park will be referred to the management advisory committee for discussion and appropriate recommendation for action.

## **PROMOTION STRATEGY**

Council will undertake to include the Yarra Junction Skate Park (as well as other Skate/BMX facilities) in any appropriate promotional material on recreation facilities and opportunities for residents. Council will produce a brochure on all skate and bmx facilities within the Shire.

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## **SAFETY / RISK MANAGEMENT**

Skaters at the facility are required to behave in a safe manner at all times. Users of the skate facility do so at their own risk. Council recommends that skaters wear appropriate head and body protection. Signage has been erected alerting skaters to this.

Council does not take responsibility for loss, damage, or theft of goods.

If an incident of a significant nature occurs the matter will be referred to the Management Advisory Committee for discussion and appropriate recommendation for action.

## **EDUCATION & AWARENESS**

Council will consider conduct of coaching clinics or competitions to raise the awareness of the facility and promote the positive image of the sport. Council may arrange these during a school holiday period with Recreation and Youth Services

## **MAINTENANCE**

### ***Litter Control***

Rubbish bins are provided for use in the Skate Park and will be emptied and maintained by Council. The presence of excess or unsafe (e.g. syringes, broken glass) litter should be reported to Council to allow for *immediate* removal.

A broom will be located at the Yarra Centre and can be accessed to sweep debris from the skate surface as loose gravel, leaves, excess water can be a hazard to skaters.

### ***Inspections***

#### **Weekly**

A visual inspection will be carried out by Council to look for graffiti, vandalism or damage. If any vandalism or damage is found it is to be reported to Council by ringing the number provided on the sign.

#### **Two Weekly**

Council staff will inspect and maintain the surrounding open space area and remove excess litter.

#### **Six Weekly**

Detailed safety inspections will be carried out by Council to ensure the Skate Park is safe for use, check conditions of pavements and paths, furniture and fencing, and surrounding lawns and plants.

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### ***Maintenance of Signage***

Council staff will inspect signage on a weekly basis. Any damage, vandalism, or graffiti will be reported to Shire of Yarra Ranges Parks Maintenance Officer, where the signs will be replaced or repaired as soon as possible

## **SIGNAGE**

Two signs are displayed at the Skate Park and contain the have information:

### **YARRA JUNCTION SKATE PARK: CONDITIONS OF USE**

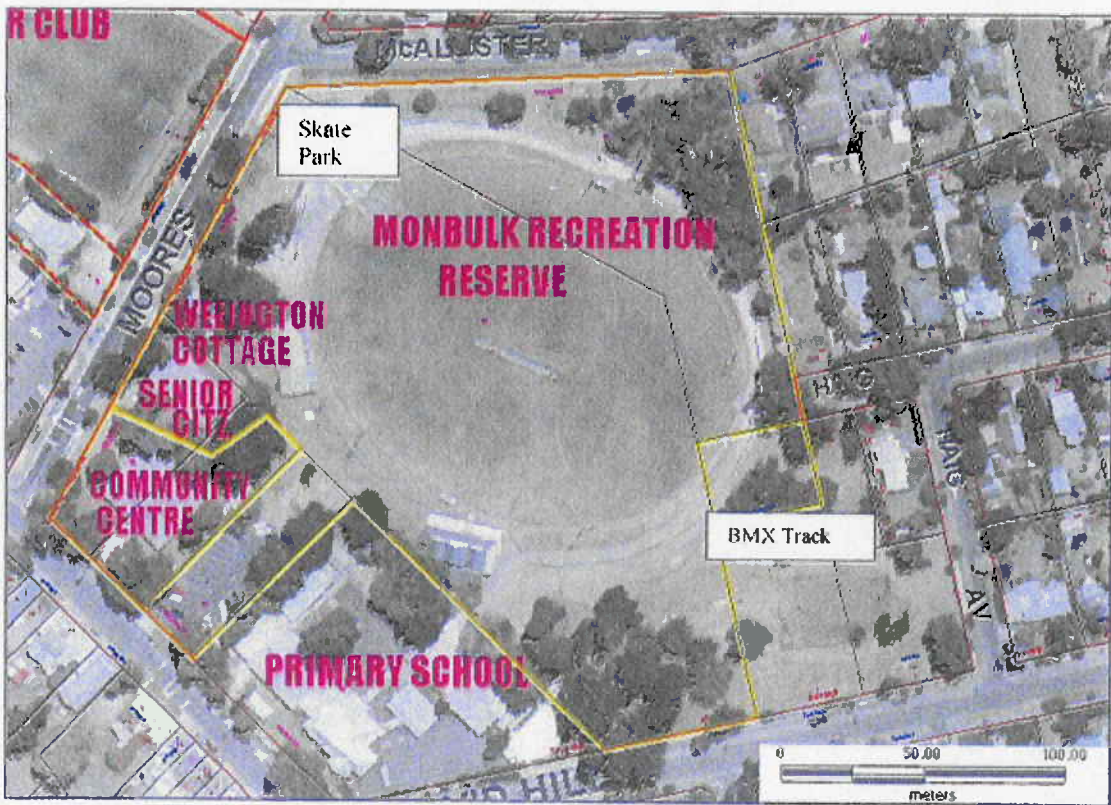
- Facility is to be used during daylight hours only
- Protective equipment, including helmet, elbow and knee pads, must be worn at all times to minimise the risk of personal injury
- Skate safely and show consideration to others
- Children under 8 years must have a parent present
- Consumption of alcohol and drugs strictly prohibited
- Person affected by alcohol or drugs are prohibited from using this facility
- Noise is to be kept to a minimum.
- All litter to be placed in bins provided
- No glass permitted on skate area
- Skate area to be kept clear of obstructions at all times
- In case of emergency dial 000 and report location.( Yarra Junction Skate Park - entrance to the Yarra Centre)
- Report any damage to the Shire of Yarra Ranges tel. 1300 368 333

**Note:** This facility will be closed during memorial/celebration services

It is a term and condition of use for this facility that the Shire of Yarra Ranges and its servants and agents accept no liability, whatever description, for any losses or injuries which may occur on this facility, however caused.

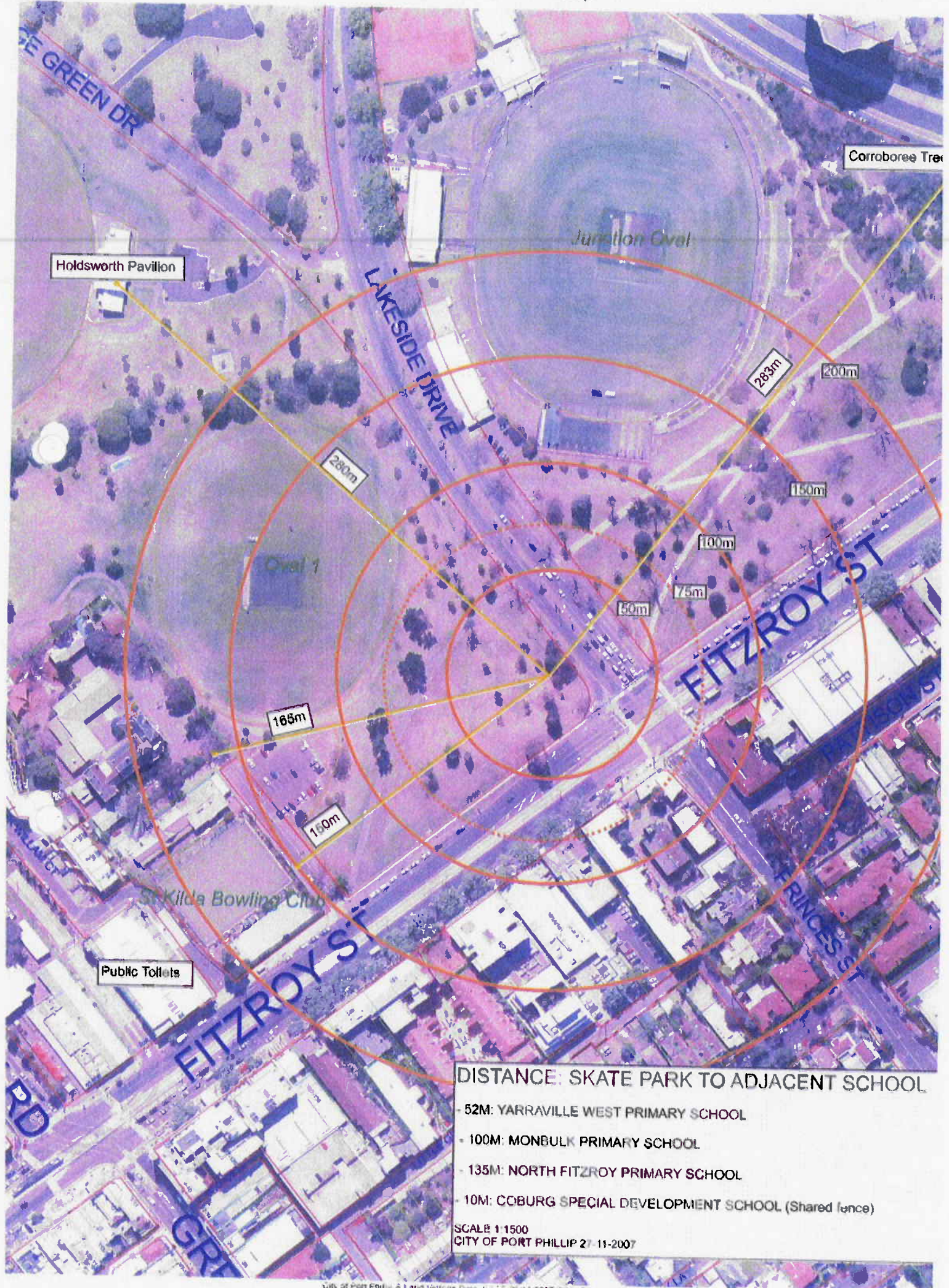
By using this skateboard facility users accept that they do so at their own risk and accept they waive and forgo any legal rights they may otherwise have against the Shire of Yarra Ranges and/or against its servants or agents.

*Signage is white writing on a black background to decrease the amount of graffiti damage.*



**SCHEDULE 3**

# City of Port Phillip



## DISTANCE: SKATE PARK TO ADJACENT SCHOOL

- 52M: YARRAVILLE WEST PRIMARY SCHOOL
- 100M: MONBULK PRIMARY SCHOOL
- 135M: NORTH FITZROY PRIMARY SCHOOL
- 10M: COBURG SPECIAL DEVELOPMENT SCHOOL (Shared fence)

SCALE 1:1500  
CITY OF PORT PHILLIP 27-11-2007

**SCHEDULE 4**

### Skate Facility Comparison

Facility	Council	School	Distance from School	Management Plan	On Site Supervision	Budget	Design
Proposed St Kilda Skates Park	City of Port Phillip	St Kilda Park Primary School	145- 165 metres	Yes	Yes	Yes - annual 50K budget	designed to contain activity and minimise spill over lines to school
Yarraville Skate Park	Manlymore City Council	Yarraville West Primary School	52 metres	No	No	No	open plan no containment
Monbulk Skate Park	Shire of Yarra Ranges	Monbulk Primary School	100 metres (BMX track within 50m)	Yes	No	No allocated budget, deal with as part of parks	open plan no containment
Dandenong Skate Park	City of Greater Dandenong	Dandenong High School	100 metres	No	No	No allocated budget, deal with as part of parks	open plan no containment
Port Fairy Skate Park	Moynesshires Council	Port Fairy Primary School	500 metres	No	No	No operational budget	open plan no containment
Microopna Skate Park	City of Greater Shepparton	St Mary's Primary School	125m major road in between	Yes	No	Minimal amount for graffiti	open plan no containment
Coburg Skate Park	Moreland City Council	Coburg Special Development School	Share adjoining fence	No	No	No specific budget allocated	open plan no containment
Fitzroy Skates Park (Edinburgh Gardens)	City of Yarra	Fitzroy North Primary School	135m	No	No	No budget dedicated to the skate park	Recessed, bowl excavated into existing ground level

**SCHEDULE 5**

Ian Pitt

From: Hicks, Ian [mailto:ian@psolph@ps.vic.gov.au]  
 Sent: Tuesday, November 27, 2007 8:10 PM  
 To: Ian Pitt  
 Subject: FW: Edinburgh Gardens skate park

Comments from Parks Officer - City of Yarra regarding the Edinburgh Skate Park.

From: Donnellan, Mark [mailto:DonneM@yarracity.vic.gov.au]  
 Sent: Tuesday, 27 November 2007 4:53 PM  
 To: Hicks, Ian  
 Subject: RE: Edinburgh Gardens skate park.

1. Is there a management plan for the Edinburgh Skate Park? No
2. Are you aware of any issues in relation to the skate park? occasional vehicles in park, graffiti, night skating (lights and generator), broken glass (from spectators)
3. Is there a dedicated annual maintenance/operation budget for the Skate Park? In open space contract - not as a separate line item
4. What is Council's policy/practice on graffiti removal? zero tolerance - sometimes the community devel people sponsor street artists to paint surfaces
5. How often if at all does the Council receive complaints from residents in relation to any issues at the skate park? rarely - once every month or so. (the new Quarries Park skate park generated many complaints immediately after opening - now nothing)
6. How often if at all does the Council receive complaints from the local primary school in relation to any issues at the skate park? never
7. How often if at all does the Council receive complaints from sports club in relation to any issues at the skate park? never
8. When Council was designing the skate park were the CPTED (Crime Prevention Through Environmental Design) used? don't know - it's been there for a very long time
9. Are you aware of any additional police patrols in the area due to the skate park? none
10. Are there any issues in relation to anti social behaviour due to the surrounding sports facilities that you are aware of. none - the skaters keep to the park, busy skating as they leave.

The skaters are fine (so are their mums, dads, brothers and sisters etc) - from time to time the bogans come and watch, get pissed and smash bottles. our parks are full of bogans, especially in summer - skate park doesn't bring them in.

good luck with VCAT

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From: Donnellan, Mark [mailto:DonneM@yarracity.vic.gov.au]  
 Sent: Tuesday, 27 November 2007 3:59 PM  
 To: Hicks, Ian  
 Subject: Edinburgh Gardens skate park

Ian,

See attached file - let me know if you need anything further. <<Edinburgh Gardens Skate Park.doc>>

Kind regards,

Parks & Gardens

Yarra's waterways, inner city location, diverse social mix and heritage character all contribute to a unique landscape. We're here to provide quality open space that meets the recreational and environmental needs of our community and enhance cultural, social and ecological values.

Visit us at: <http://www.yarracity.vic.gov.au/Services/Parks/>

Mark Donnellan  
 Parks Officer  
 City of Yarra

PO Box 168  
 Richmond Vic 3121

T - (03) 9205 5724  
 F - (03) 8417 6666  
 W - [www.yarracity.vic.gov.au](http://www.yarracity.vic.gov.au)

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North Fitzroy Primary School de facto play ground  
within Edinburgh Gardens

Skate Park (~130 metres from Fitzroy North P.S.)

**SCHEDULE 6**

Ian Pitt

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**From:** Blair, Fiona [fblair@portphillip.vic.gov.au]

**Sent:** Tuesday, November 27, 2007 5:18 PM

**To:** Ian Pitt

**Subject:** FW: Skate Park Questions

Ian

This is the response from Maribymong Council in relation to Yarraville Skate Park. I will also be sending through GIS picture of the Yarraville Skate Park the school and surrounding area. Fiona

---

**From:** Andrea.Jackson@maribymong.vic.gov.au [mailto:Andrea.Jackson@maribymong.vic.gov.au]

**Sent:** Tuesday, 27 November 2007 5:09 PM

**To:** Blair, Fiona

**Subject:** Skate Park Questions

Hi Fiona,

Please find the following response to your questions. Overall the facility doesn't attract 'bad press', that's why I guess we are able to manage it in the following manner. Obviously if it started to cause us real headaches it would be much more tightly managed, however we maintain it through Council's normal business and make sure it's safe and clean, that's about it. We are having a Youth Event soon staged at the Skate Park so all seems good in the City of Maribymong and its skate facility.

**Is there a management plan for the Yarraville Skate Park ?**

No

**Are you aware of any issues in relation to the skate park?**

I have discussed this with several staff members who state that they have received several informal complaints regarding anti-social behaviour, graffiti, vandalism and theft at the nearby sportsground and school. However, these type of incidents are not isolated to just this sportsground and/or school in the Maribymong area and there is no direct evidence linking this type of behaviour with the skatepark. We are aware that sometimes perceptions around skateparks and their users can sometime lend itself to these type of conclusions being drawn.

**What is the annual maintenance/operation costs for the Yarraville Skate Park?**

This is just part of our Parks and Gardens budget. If we were to put a cost on the annual maintenance for this facility it may be approximately \$5000 per annum

**What is Council's policy/practice on graffiti removal?**

Maribymong City Council's graffiti policy requires removal of graffiti within 24 hrs of it being reported.

**How often if at all does the Council receive complaints from residents in relation to any issues at the skate park?**

None from residents that I am aware of. No formal complaints received only informal discussion during meetings held with sportsground users and the nearby school on other matters.

**How often if at all does the Council receive complaints from the local primary school in relation to any issues at the skate park?**

No formal complaints have been received by Council regarding activities at the skatepark.

**How often if at all does the Council receive complaints from sports club in relation to any issues at the skate park?**

Occasionally they will report a break in or graffiti and blame it on the skatepark users, but this has never been

11/27/2007

substantiated.

**How often does the Council do a syringe collection from the school and has this increased since the skate park was built?**

Normally these requests are logged on our Customer Services Request System. I have no record of any Customer Service requests for syringe pick up from the Yarraville West Primary School. In addition I spoke with our Officer who manages the Syringe pick up program and she stated that she was unaware of any problems at Yarraville West Primary School.

**When Council was designing the skate park were the CPTED (Crime Prevention Through Environmental Design) used?**

Not that I am aware of.

**Are you aware of any additional police patrols in the area due to the skate park?**

Council is not aware of any additional police patrols around the area. However you could ring the Footscray Police on ph: 8398 9600 to check.

**Are there any issues in relation to anti social behaviour due to the surrounding sports facilities.**

The school report that the ground attract undesirable activities around the school, however again nothing formal. The sportsclub also complain about some of the school's use and activity re; rubble left on and around ground by students.

**Is the Yarraville Skate Park able to be fenced off and closed?**

The only fence line is between the sportsground/tennis courts and house, not the roadway.

Sorry for the brief information provided, however I tried to get this together as quickly as poss.

thanks

**Andrea Jackson**

**Maribymong City Council**

Recreation Services Co-ordinator

Tel: (03) 9688 0586

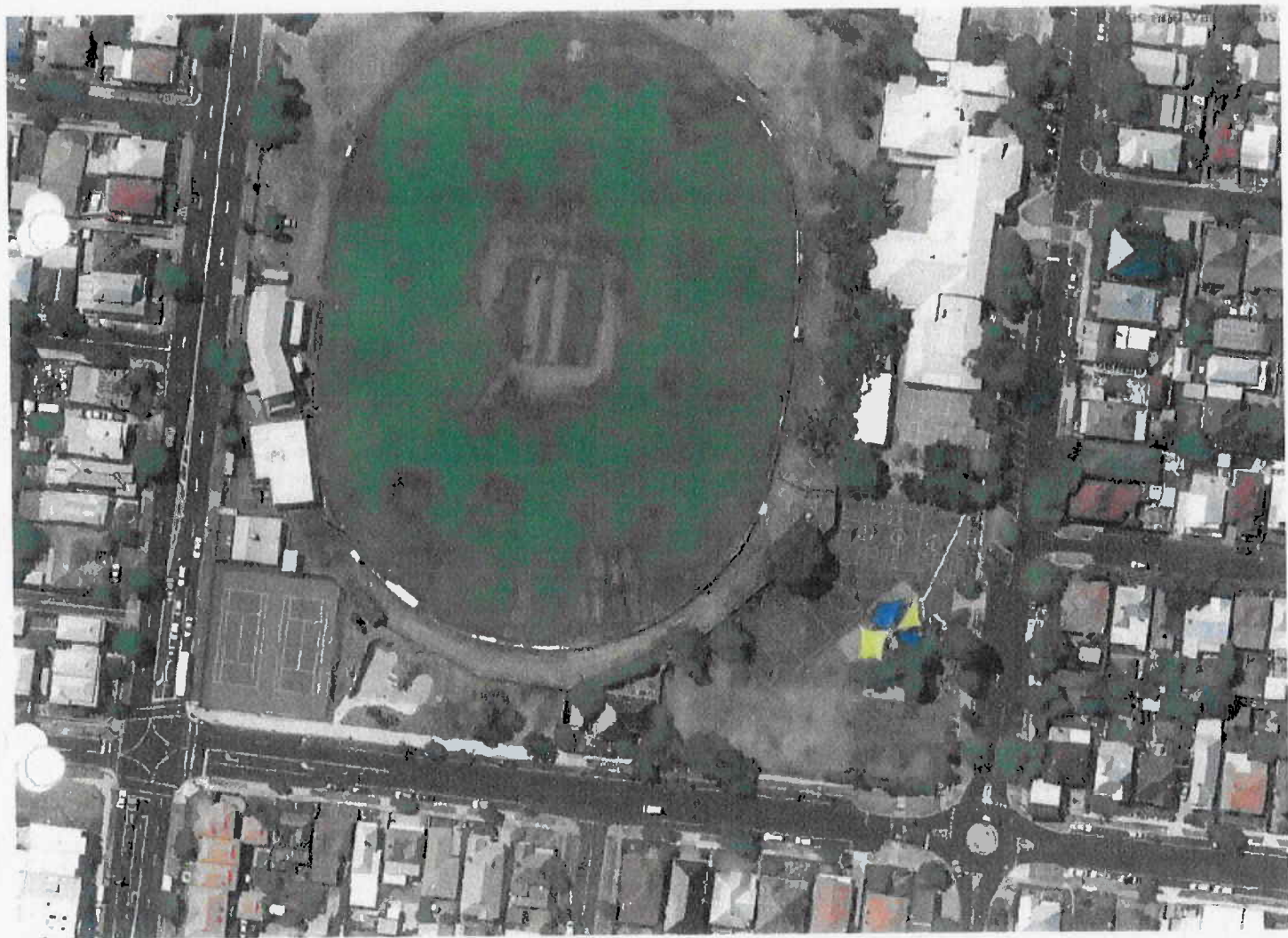
Mob: 0403 445 160

Email: [andrea.jackson@maribymong.vic.gov.au](mailto:andrea.jackson@maribymong.vic.gov.au)

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**SCHEDULE 7**

28 November 2007

Mr Ian Hicks  
Manager Culture and Recreation  
City of Port Phillip  
Private Bag No 3  
PO ST KILDA VIC 3182

Dear Ian,

I write in relation to the proposed development of a Skate Park facility within Albert Park Reserve at the corner of Lakeside Drive and Fitzroy St.

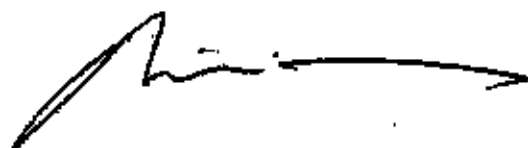
Parks Victoria is satisfied that a skate park in this location can be successfully managed by the City of Port Phillip in accordance with the Management Plan and Management Service Agreements set out in the Service and Tenancy Agreement entered into between Parks Victoria and the City of Port Phillip in March 2007. In light of the commitment to maintenance made by the City for the proposed Skate Park, Parks Victoria will continue to maintain the immediate area surrounding the skate park to agreed standards.

With regard to the proposed design for the facility, it has been reviewed by Parks Victoria and subject to the City of Port Phillip gaining the required permits for construction, Parks Victoria is confident that it is consistent with and will form part of a contemporary urban park setting. The proposed facility is regarded by Parks Victoria as a recreational facility and not a site for organised sport or competition. Parks Victoria expects that there may be a desire to conduct events at the Skate Park. In light of this, events at the site will form part of the overall events strategy for Albert Park and would not be more than 2 per year.

Should the Skate Park gain permit approval, Parks Victoria looks forward to working with the City of Port Phillip to ensure that the facility is a success and delivers ongoing benefits to the local youth and wider communities within the City.

Should you require further advice on this matter please contact me on 9695 9002.

Yours sincerely



Phillip Ross  
Manager, Albert Park

**SCHEDULE 8**

Aboriginal Heritage Act 2006 – Section 147

# Victorian Aboriginal Heritage Register – advice as to the existence of records in relation to a nominated area of land

## 1. CONTACT – Applicant information

Name of applicant:

Business name (if any):

Postal address:

Telephone number:  Fax number:

Email address:  ABN (if any):

## 2. PROPERTY – Land to which the provisions of the Act apply:

Title details (volume and folio number):

Address / other description of land:

Directory reference (eg VICROADS / Melway):

## 3. RECORDS – Register information

Does the Register contain a record of Aboriginal cultural heritage in relation to the nominated area of land?

No  Yes – see attached details

Does a stop order exist in relation to any part of the nominated area of land?

No  Yes – see attached details

Does an interim or ongoing protection declaration exist in relation to any part of the nominated area of land?

No  Yes – see attached details

Does a cultural heritage agreement exist in relation to any part of the nominated area of land?

No  Yes – see attached details

The absence of records on the Register for a nominated area of land does not necessarily mean that the area is devoid of Aboriginal cultural heritage values. Applicants should be aware of the provisions of s.17 and s.24 of the Aboriginal Heritage Act 2006, which require the reporting of Aboriginal remains, Aboriginal places and objects discovered in Victoria. This advice does not abrogate any requirement to prepare a Cultural Heritage Management Plan under the Aboriginal Heritage Act 2006.

This advice may be of assistance to you, but the State of Victoria and its employees do not give any warranty, guarantee or representation about its accuracy or reliability or that it is appropriate for your purpose, and therefore disclaims all legal responsibility and liability for any loss (through any cause) or other consequences which may arise from you relying on any of the advice provided for any purpose.

Signed:   
 IAN HANN  
 Deputy Director  
 Aboriginal Affairs Victoria

Date: 13/11/07  
 Receipt attached:

**IN THE MATTER** of the *Planning and Environment Act 1987* [the Act]

and

**IN THE MATTER** of the *Victorian Civil and Administrative Tribunal Act 1998* [the VCAT Act]

and

**IN THE MATTER** of Application for Review No. P1174/2007 by Regal Hotel Pty Ltd & ors [the Objectors] against the decision of the Port Phillip City Council [the Council] to grant a permit for the use and development of part of Albert Park situate at the north-west corner of Lakeside Drive and Fitzroy Street, St Kilda [the Subject Land] for the purpose of a skate park.

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**WRITTEN OUTLINE OF  
SUBMISSIONS IN REPLY  
ON BEHALF OF THE COUNCIL**

---

**BEST HOOPER**

Solicitors  
563 Lt. Lonsdale Street  
MELBOURNE 3000

Tel: (03) 9670 8951  
Fax: (03) 9670 2954  
Ref: IP:MF:07040841

F:\Margaret\lan Pitt\SUBMISSIONS\City of Port Phillip - Skate Park, Fitzroy St.\Outline of Submissions in Reply.doc